

UNITED STATES OF AMERICA, :
v. : Case No. 3:07-cr-27-KRG-KAP
JERALD McCULLOUGH, :
Movant :

The Court of Appeals has made it clear that the Fair Sentencing Act applies retroactively to those sentenced after its effective date, August 3, 2010, but not to those who were sentenced earlier. See e.g. United States v. Turlington, 696 F.3d 425, 428 (3d Cir.2012) (contrasting United States v. Dixon, 648 F.3d 195 (3d Cir.2011) and United States v. Reevey, 631 F.3d 110 (3d Cir.2010)). Movant was sentenced on July 2, 2009.

Additionally, because he was sentenced as a career offender, movant is not eligible for relief under the Fair Sentencing Act or amendments to the Sentencing Guidelines. United States v. Mateo, 560 F.3d 152 (3d Cir.2009).

After *de novo* review of the record, the Report and Recommendation, and the objections thereto, the following order is entered:

AND NOW, this 5th day of August, 2013, it is

ORDERED that the motion at docket no. 55 is denied. The Report and Recommendation is adopted as the opinion of the Court. The Clerk can terminate the motion at docket no. 65 as denied.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Kim R. Gibson". The signature is written in a cursive, flowing style with a large initial "K".

KIM R. GIBSON,
UNITED STATES DISTRICT JUDGE

Notice to counsel of record by ECF